

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**SIX STAR HOLDINGS, LLC
and FEROL, LLC**

Plaintiffs,

v.

Case No. 10-C-0893

CITY OF MILWAUKEE

Defendant.

DECISION AND ORDER

On February 19, 2015, a jury returned a verdict in favor of plaintiff Ferol LLC and against the City of Milwaukee in the amount of \$435,500 in connection with Ferol's claim challenging the constitutionality of the City's "theater" and "public entertainment club" ordinances. The other plaintiff in this case, Six Star Holdings, LLC, did not present evidence at trial. However, I had previously granted summary judgment to Six Star on its claim challenging the constitutionality of the City of Milwaukee's former theater ordinance. Although Six Star elected not to pursue compensatory damages at trial, it is still entitled to an award of \$1.00 in nominal damages. See Carey v. Piphus, 435 U.S. 247, 266–67 (1978). The City, however, contends that Six Star waived its right to recover nominal damages by stating in response to the City's interrogatories and requests for admission that it will not seek damages from the City. See ECF No. 113 and attached exhibits. But the context of the interrogatories and requests for admission makes clear that Six Star was waiving only its claims for compensatory damages—i.e., damages that Six Star would have to prove at trial. Accordingly, I conclude that Six Star has not waived its right to recover nominal damages and will enter a judgment that includes a \$1.00 nominal-damages award in favor of Six Star.

For the reasons stated, **IT IS ORDERED** that plaintiff Six Star's motion for nominal damages is **GRANTED**.

Dated at Milwaukee, Wisconsin, this 19th day of February 2015.

s/ Lynn Adelman

LYNN ADELMAN
District Judge